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**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA**

In re

**DESERT VALLEY STEAM
CARPET CLEANING, LLC**

Debtor.

Chapter 11

Case No. 2:20-bk-00570-BKM

**DEBTOR'S THIRD AMENDED
DISCLOSURE STATEMENT**

I. INTRODUCTION

This document is the disclosure statement of the debtor, Desert Valley Steam Carpet Cleaning, LLC (“**Debtor**” or “**DVSCC**”), in the above entitled Chapter 11 bankruptcy proceeding. This Third Amended Disclosure Statement is submitted by the Debtor pursuant to 11 U.S.C. §1125 (the “**Disclosure Statement**”).

11 U.S.C. §1125(b) prohibits the solicitation of acceptances or rejections of a plan of reorganization unless such plan is accompanied by a copy of the Disclosure Statement which has been approved by the Bankruptcy Court.

The purpose of this Disclosure Statement is to provide creditors and interested parties in this bankruptcy proceeding with such information as may reasonably be deemed sufficient to allow creditors and interested parties to make an informed decision regarding

1 the Debtors' Joint Plan of Reorganization ("Plan"), a copy of which is attached hereto and
2 incorporated herein as **Exhibit A**.

3
4 Unless otherwise noted, those portions of the Plan and this Disclosure Statement
5 providing factual information concerning the Debtor, their assets and liabilities, have been
6 prepared from information submitted by the Debtor and their retained professionals. The
7 Debtor and other professionals employed by the Debtor have utilized all relevant, non-
8 privileged information provided by the Debtor in preparing this Disclosure Statement and
9 the Plan.
10

11 This Disclosure Statement contains information that may influence your decision to
12 accept or reject the Debtor's proposed Plan. Please read this document with care.
13

14 The financial information contained in this Disclosure Statement has not been
15 subjected to an audit by an independent certified public accountant. For that reason, the
16 Debtor is not able to warrant or represent that the information contained in this Disclosure
17 Statement is without any inaccuracy. To the extent practicable, the information has been
18 prepared from the Debtor's financial books and records and great effort has been made to
19 ensure that all such information is fairly representative.
20

21 This Disclosure Statement and the Plan will classify all creditors into Classes. The
22 treatment of each Class of creditors will be set forth in this Disclosure Statement and in the
23 Plan. You should carefully examine the treatment of the Class to which your Claim will be
24 assigned.
25

26 This Disclosure Statement requires approval by the Bankruptcy Court after notice
27 and a hearing pursuant to 11 U.S.C. §1125(b). Once approved, the Disclosure Statement
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1 will be distributed with the Debtor's proposed Plan for voting. Approval of the Disclosure
2 Statement by the Bankruptcy Court does not constitute either certification or approval of
3 the Debtor's Plan by the Bankruptcy Court or that the Disclosure Statement is without any
4 inaccuracy.
5

6 The Bankruptcy Court will confirm the Plan if the requirements of Section 1129 of
7 the Bankruptcy Code are satisfied. The Bankruptcy Court must determine whether the Plan
8 has been accepted by each impaired class entitled to vote on the Plan. Impaired classes
9 entitled to vote on the Plan are those classes of claims whose legal, equitable or contractual
10 rights are altered, as defined under §1124 of the Bankruptcy Code. An impaired class of
11 claims is deemed to have accepted the Plan if at least two thirds in amount of those claims
12 who vote and more than one half in number of those claims who vote have accepted the
13 Plan. An impaired class of interests is deemed to have accepted the Plan if the Plan has
14 been accepted by at least two thirds in amount of the allowed interests who vote on the
15 Plan.
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17 Even if each class of creditors does not accept the Plan, the Plan can be confirmed
18 under §1129(b) of the Code, so long as one impaired class of creditors accepts the Plan.
19 This is referred to as the "cram down" provision. The failure of each class to accept the
20 Plan could very well result in a conversion of this case to a Chapter 7 or dismissal of the
21 Chapter 11, and the secured creditors repossessing its collateral and disposing of it in a
22 commercially reasonable manner with no obligation to unsecured creditors.
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24 Only the votes of those creditors or interested parties whose ballots are timely
25 received will be counted in determining whether a class has accepted the Plan.
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1 **II. DEFINITIONS**

2 The definitions set forth in Article I of the Plan apply in this Disclosure Statement
3 except to the extent other definitions are set forth in this Disclosure Statement.
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5 **III. THE DEBTORS AND EVENTS PRECIPITATING THE CHAPTER 11**

6 DVSCC was formed on or about August 12, 2005, for the purpose of owning and
7 operating a multi-family housing property located at 603 and 607 North D Street, Eloy,
8 Arizona 85131 (the “**Property**”). The Property is comprised of 4 lots: Lots 1-4. DVSCC’s
9 is comprised of two member/managers: Jamie Granado and Victor Granado (the
10 “**Principals**”).
11

12 Atlas Residential, LLC (“**Atlas**”) claim liens on the Property pursuant to a deed of
13 trust (“**Deed of Trust**”) recorded with the Pinal County Recorder’s Office (“**Recorder’s**
14 **Office**”) at Rec. Do. No. Rec. Doc. 2015-013815 and attached as “**Exhibit B**”. Atlas also
15 claims an interest in the revenue (rents) generated by the operation of Debtor is its “cash
16 collateral” as defined in 11 U.S.C. §363 pursuant to an assignment of rents (“**Assignment**
17 **of Rents**”) executed by Debtor and also recorded with the Recorder’s Office at Rec. Doc.
18 No. 2015-013816. Atlas further claims they are entitled to reimbursement of administrative
19 expenses in the alleged amount of \$247,544.45.
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22 DVSCC originally obtained a loan from KS State Bank (“**KSB**”). KSB subsequently
23 sold the loan to Atlas. On or about March 17, 2017, a fire occurred at the Property, severely
24 damaging the five (5) unit building on the Property. After the fire, Debtor was unable to
25 continue to make the mortgage payments on the Property. Debtor’s insurer, State Farm,
26 paid insurance proceeds to Debtor and KSB totaling \$158,191.06 related to the fire (“**First**
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1 **Insurance Proceeds**").¹ On or about May 31, 2018, State Farm paid Debtor and Atlas an
2 additional \$9,834.76 in insurance proceeds related to the fire claim ("**Second Insurance**
3 **Proceeds**" and together with the First Insurance Proceeds, the "**Fire Insurance**
4 **Proceeds**"). On or about July 19, 2018, while the Property was in the sole possession and
5 control of Atlas, a roof collapse ("**Roof Collapse**") occurred at the Property caused by the
6 unpermitted demolition activities authorized by Atlas. Once again, State Farm covered
7 losses associated with the Roof Collapse, and on or about September 5, 2018 issued a check
8 for such insurance proceeds totaling \$98,509.29 ("**Collapse Insurance Proceeds**" and
9 together with the Fire Insurance Proceeds, the "**Insurance Proceeds**"). Debtor has been
10 locked in litigation with Atlas for nearly three (3) years and sought bankruptcy protection
11 in an effort to reorganize its financial affairs and prevent the foreclosure of the Property by
12 Atlas.
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16 **IV. SIGNIFICANT EVENTS DURING THE CHAPTER 11**

17 **a. Administrative Proceedings**

18 DVSCC filed its Petition for Relief under Chapter 11 on January 16, 2020
19 commencing the instant bankruptcy proceeding ("**Bankruptcy Proceeding**"). On or about
20 February 12, 2020, Debtor attended an initial debtor interview with the analyst for the U.S.
21 Trustee's Office. On or about February 18, 2020, the first meetings of creditors in the
22 Bankruptcy Proceeding was held and concluded.
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¹ KSB transferred the rights in the First Insurance Proceeds to Atlas when it sold the loan.

1 **b. Order to Show Cause**

2 On January 17, 2020, the Court issued an Order to Show Cause as to why DVSCC's
3 case should not be dismissed for lack of counsel and set a hearing on February 4, 2020 (the
4 "February 4 Hearing")(see Dkt. No. 6). Pursuant to the Minute Entry (see Dkt. No. 33)
5 the matter was dismissed as Moot due to the appearance of Keery McCue, PLLC ("KM").
6

7 **c. Expedited Motion to Dismiss Chapter 11**

8 On January 21, 2020, Atlas filed an *Expedited Motion to Dismiss Chapter 11* (see
9 Dkt. No. 11). On February 3, 2020, DVSCC filed an *Objection to the Expedited Motion to*
10 *Dismiss Chapter 11* (see Dkt. No. 28). After the February 4 Hearing, the Court took the
11 Matter under Advisement and after a second hearing on February 13, 2020, entered an order
12 denying the Expedited Motion to Dismiss Chapter 11 (see Dkt. Nos. 36 and 38).
13

14 **d. Retention of Professionals**

15 On January 28, 2020, DVSCC filed a Petition for Authority to Retain Keery McCue,
16 PLLC ("KM") to act as its bankruptcy counsel. The Court signed an Order Appointing KM
17 as bankruptcy counsel on January 29, 2020 (see Dkt. No. 21). On February 3, 2020, Atlas
18 filed an Objection to Employment of Counsel for Debtor (see Dkt. No. 27). After the
19 February 4 Hearing, KM filed a Supplement Verified Statement of Professional Pursuant
20 to FRBP 2014 (see Dkt. No. 30) and on February 11, 2020 Atlas filed a Second Objection
21 to Employment of Counsel for Debtor (see Dkt. No. 34). On February 24, 2020, DVSCC
22 filed a Response to Atlas' Objections to Employment of Counsel for Debtor (see Dkt. No.
23 46). The Court signed a Minute Entry Order on March 2, 2020 Appointing KM as
24 bankruptcy counsel as of February 26, 2020 with the caveat that KM file a Second
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1 Supplemental Verified Statement of Professional Pursuant to FRBP 2014 (“**Second**
2 **Supplemental**”)(*see* Dkt. No. 54). The Second Supplemental was timely filed on March
3 6, 2020.
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5 On November 6, 2020, Shawn McCabe and Wright Law Offices (“**WLO**”)
6 substituted in for KM as counsel for DVSCC. (*see* Dkt. No. 155).

7 **e. Motion to Extend Time to File Schedules and Statements**

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9 On January 29, 2020, DVSCC filed a Motion to Extend Time to File Schedules
10 and Statements (*see* Dkt. No. 22). The Court signed an Order Granting the Motion to
11 Extend Time to File Schedules and Statements on January 29, 2020 (*see* Dkt. No. 24). On
12 February 6, 2020, DVSCC filed the completion of its schedules and statements (Dkt. No.
13 32).
14

15 **f. Motion to Compel Turnover**

16 On February 21, 2020, DVSCC filed a *Motion to Compel Turnover of Property of*
17 *the Estate Pursuant to 11 U.S.C. §§ 362(a)(3), (a)(6) and 543(b)* (“**Motion to**
18 **Compel**”)(*see* Dkt. No. 40). On March 7, 2020, Atlas filed a *Response to the Motion to*
19 *Compel* (*see* Dkt. No. 61). On March 23, 2020, DVSCC filed a *Reply to Atlas’ Response*
20 *to the Motion to Compel* (*see* Dkt. No. 67). On March 5, 2020, DVSCC filed a Notice of
21 Hearing setting a hearing on the Motion to Compel for April 7, 2020 (“**April 7 Hearing**”).
22 At the April 7 Hearing, the Court granted DVSCC’s Motion to Compel and ordered that
23 Atlas turnover the Property, the rents and the remainder of the Insurance Proceeds (Dkt.
24 No. 69).
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1 **g. Motion for Relief from Stay**

2 On February 27, 2020, Atlas filed a *Motion for Relief from Stay* (“**Motion for**
3 **Relief**”) regarding Real Property located at: 601 North D Street, Eloy, AZ 85131 and 603
4 North D. Street, Eloy, AZ 85131 (the “**Property**”)(*see* Dkt. No. 51). On March 12, 2020,
5 DVSCC filed an Objection to the Motion for Relief. On March 13, 2020, Atlas filed a
6 *Notice of Preliminary Hearing on the Motion for Relief* setting the preliminary hearing on
7 the Motion for Relief for April 7, 2020. At the April 7 Hearing, the Court ruled that the
8 Motion for Relief will track with Plan Confirmation. The Motion for Relief is currently
9 pending before the Court and tracking with the hearings on DVSCC’s Disclosure Statement.

12 **h. Use of Cash Collateral**

13 On April 20, 2020, DVSCC filed an *Emergency Motion for Authorization to Use*
14 *Cash Collateral* (“**CC Motion**”)(*see* Dkt. No. 71). Pursuant to the Motion, DVSCC
15 requested an order authorizing the use of cash collateral in accordance with the Budget
16 attached to the Motion. An initial hearing was held on April 24, 2020 (“**Initial Cash**
17 **Collateral Hearing**”). At the Initial Cash Collateral Hearing, the Court found that DVSCC
18 and Atlas had reached a tentative agreement as to the interim use of cash collateral (*see*
19 ME Order at Dkt. No. 80 which constitutes “**First Interim CC Order**”). Regarding
20 adequate protection, the Court found that DVSCC’s payment of \$1,120.00 to Atlas and a
21 sequestering of the Insurance Proceeds in a separate DIP account provided adequate
22 protection to Atlas for their secured interest in the Property under the Deed of Trust and
23 claimed interest in the Insurance Proceeds. *Id.* at pg. 2. DVSCC has made monthly
24 adequate protection payments to Atlas since this date.
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1 The Court set a continued hearing on cash collateral for April 28, 2020 (“**Continued**
2 **CC Hearing**”). At the Continued Hearing, DVSCC and Atlas agreed to the use of cash
3 collateral. On April 30, 2020, the Court signed an Order Granting Debtor’s Emergency
4 Motion for Authorization to use Cash Collateral (“**CC Order**”)(see Dkt. No. 85).

5
6 **i. Claims Bar Date**

7 The Court has set a Claims Bar Date of August 4, 2020. (see Dkt. No. 98)

8
9 **j. Appointment of Unsecured Creditors Committee**

10 On February 26, 2020, the United States Trustee's Office filed a statement
11 concerning its inability to appoint a committee of unsecured creditors. (see Dkt. No. 49).

12
13 **k. Application to Employ Appraiser**

14 On May 29, 2020, DVSCC filed an *Ex Parte Application to Employ Josephs*
15 *Appraisal Group as Appraiser for Debtor* (“**Ex Parte Application**”) so as to obtain an
16 appraisal report as to the value of the Property (Dkt. No. 90). On June 1, 2020, the Court
17 entered a conditional order granting the Ex Parte Application (see Dkt. No. 93). DVSCC
18 also anticipates filing an application to employ a building inspection company to provide
19 an inspection as to the condition of the Property.
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22 **l. Atlas Proof of Claim #3**

23 On April 21, 2020, Atlas filed a Secured Claim in the amount of \$617,704.56 related
24 to its first position lien Deed of Trust and Assignment of Rents secured by the Property
25 (Claims Register – Claim No. 3). Atlas filed two amended proofs of claim on May 20, 2020
26 in the same amount. (Claims Register – Claim Nos. 3-2 and 3-3). On July 31, 2020, Atlas
27 filed their fourth amend proof of claim, alleging their entire claim of \$643,235.99 was
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1 secured by the Property, the Insurance Proceeds, and the Rents. (“**Claim 3-4**”) (Claims
2 Register – Claim No. 3-4). Atlas alleges their claim to be secured by the Property through
3 the Deed of Trust, secured against the Insurance Proceeds, and secured by the rents
4 collected on the Property through the Assignment of Rents. Atlas further claims that
5 \$247,544.45 of their claim is entitled to priority as an Administrative Expense Claim.
6

7 DVSCC has objected to Claim 3-4. (see Dkt. No. 176 and 211). DVSCC contends
8 that Atlas Secured Claim is limited by the express language of the Deed of Trust to
9 \$275,000.00. Specifically, the Deed of Trust states in no uncertain terms, “MAXIMUM
10 LIEN. The lien of this Deed of Trust shall not exceed at any one time \$275,000.00.” *see*
11 Exhibit B.
12

13 DVSCC contends that the Assignment of Rents is incorporated into the Deed of
14 Trust and thereby also subject to the \$275,000 maximum lien amount. The Deed of Trust
15 further states,
16

17 THIS DEED OF TRUST, INCLUDING THE ASSIGNMENT OF
18 RENTS AND THE SECURITY INTEREST IN THE RENTS AND
19 PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT
20 OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY
21 AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED
22 DOCUMENTS, AND THIS DEED OF TRUST.

23 Exhibit B at pg. 3. Accordingly, Atlas’ Secured Claim under the Deed of Trust and
24 the Assignment of Rents cannot exceed \$275,000.00 at any one time.

25 The third component of Atlas’s Claim is that their Secured Claim is secured by the
26 Insurance Proceeds in addition to the Property and the Rents. Atlas has not perfected any
27 such lien and bases their argument solely on contract law. DVSCC objects to this position
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1 on the grounds that the Deed of Trust provides clear instructions as to how any insurance
2 proceeds are to be paid out. Specifically, the Deed of Trust states:

3
4 Any proceeds which have not been disbursed within 180 days
5 after their receipt and which Lender has not committed to the repair
6 or restoration of the Property shall be used first to pay amount owing
7 to the Lender under this Deed of Trust, then to pay accrued interest,
and the remainder, if any, shall be applied to principle balance of the
Indebtedness.

8 Exhibit B at pg. 6. Here, there is no dispute the 180 day deadline is passed. Atlas has not
9 committed the funds to repair: they have not paid licensed contractors for repair work or
10 entered into contract for such repairs. Accordingly, the Insurance Proceeds must be applied
11 in accordance with the above provision of the Deed of Trust.
12

13 Finally, the Pinal County Superior Court, in S1100CV201801357, has already
14 litigated this issue and rendered an Order on September 17, 2019. *See* Ruling on Matter
15 Under Advisement attached as “**Exhibit C**”. There, the court found,

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17 Any proceeds not disbursed within 180 days from when the lender
18 obtains the proceeds shall be used: first, to pay lender any overdue
19 amounts due, then, second, accrued but unpaid interest on the note,
and third, a dollar for dollar principal reduction of the note unless
those funds have been “committed.”

20 Exhibit C at pg. 3. That court interpreted “committed” to mean “Atlas entering into a
21 written contract with another entity to perform work on the property.” Exhibit C at pg. 3.
22

23 The court further found,

24 Atlas conceded that 180 days had passed since Atlas received most (if
25 not all) of the checks from the insurance company. Atlas made that
26 representation to the Court over 90 days ago. The Court presumes that
the 180-day period has now run as to all checks.
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1 Exhibit C at pg. 3. Finally, the court “ORDERED if Atlas has not entered into an
2 actual written contract for the repair of the property within 180 days of receiving the
3 proceeds, then the proceeds shall be applied in the order outlined by the Court above.”
4 Atlas had not entered into such a contract at that time and disclosed no such contracts
5 during discovery prior to that Ruling. DVSCC contends that the Insurance Proceeds must
6 be applied in accordance with the Pinal County Superior Court’s Order and the language
7 of the Deed of Trust.
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9
10 **m. Atlas Administrative Expense Claim**

11 On July 17, 2020, Atlas submitted their *Amended First and Second Application for*
12 *Compensation and Reimbursement of Expenses for Custodian* (“**Atlas’ Administrative**
13 **Claim**”). (*see* Dkt. No. 115). Atlas seeks reimbursement of \$247,544.45 in alleged pre-
14 petition expenditures on the Property while it was in Atlas’ possession. DVSCC objects to
15 approval of this claim on the grounds Atlas was not a ‘custodian’ of the Property for
16 purposes of Bankruptcy Code Section 503(b)(3)(E), Atlas has not properly accounted for
17 its expenditures, and Atlas’ expenditures were unreasonable and unnecessary. (*see* Dkt.
18 No. 119 and 176). Atlas contends they are entitled to reimbursement under Bankruptcy
19 Code Section 503(b)(3)(E). Specifically, Atlas contends they were acting as a custodian
20 and all costs expended on the Property were reasonable and necessary. DVSCC has
21 objected to this claim on the grounds 1.) that Atlas was not a custodian as defined by the
22 Bankruptcy Code; 2.) the expenditures were not necessary; and 3.) the expenditures were
23 not reasonable.
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DVSCC contends that rather simply repairing damages, Atlas unnecessarily upgraded the property and did so in a manner that violated Arizona law. Specifically, Atlas utilized the work of unlicensed contractors and did not obtain all necessary permits for the work that was done. Just to give a few examples, Atlas employed unlicensed contractors to replace roofs, install air conditioning units, install water heaters, perform plumbing work, install high voltage electrical wires, replace electrical panels/fuse boxes, install cabinets, and install new flooring. Not only did Atlas fail to perform work up to applicable industry standards, the inferior quality of work in attempting to rebuild a fire damaged building led to a total collapse of the remaining portion of that building. Atlas' Administrative Claim is set to be scheduled for trial in late 2021. It is currently in the discovery phase. DVSCC believes Atlas' Administrative Claim will be significantly reduced if not eliminated by the conclusion of the trial on these issues. This matter is currently set for resolution at trial in late 2021. (*see* Dkt. No. 178).

n. Atlas Motion for Leave to Amend Proof of Claim

Atlas filed a proof of claim and amended it three times prior to the expiration of the August 4, 2020, proof of claims deadline. (*see* Claims Register POC 3-1, 3-2, 3-3 and 3-4). On November 5, 2020, Atlas filed a *Motion to for Leave to Amend Proof of Claim* seeking permission to include a judgment lien of approximately \$74,000.00 as part of their timely filed proof of claim (Dkt. No. 150 "**Motion to Amend POC**"). Over DVSCC's objection, the Court granted the Motion to Amend POC, allowing Atlas to file a new proof of claim, to be considered timely, to include their judgment lien claim (Dkt. No. 184, "**Order to Amend**").

1 **o. Atlas Motion to Set Valuation Hearing**

2 On November 23, 2020, Atlas filed *Atlas Residential's Motion to Set Evidentiary*
3 *Hearing to Value Real Property* (Dkt. No. 170, the “**Motion to Value Property**”), seeking
4 to set an evidentiary hearing to determine the value of the Property. DVSCC responded in
5 opposition on December 7, 2020, filing their *Objection to Motion/Application to Set*
6 *Valuation Hearing on Real Property* (Dkt. No. 175, the “Objection to Property
7 Valuation”). Atlas filed their Reply to DVSCC’s Objection on December 18, 2020 (Dkt.
8 No. 181).
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11 Atlas’ Motion to Value Property was eventually heard on March 16, 2021, where
12 the Court determined that the Motion to Value Property would be granted. *See* Dkt. No.
13 216. On March 19, 2021, the Court entered the Order Setting Video Evidentiary Hearing
14 and Establishing Procedures. Dkt. No. 218. The matter is set for a video evidentiary hearing
15 on June 1, 2021. *Id.*
16

17 **p. Atlas Proof of Claim #7 - Judgment Lien Claim**

18 Pursuant to the Order to Amend, on December 22, 2020, Atlas filed another proof
19 of claim (Claims Register Claim 7-1 “**Claim 7-1**”). Claim 7-1 reincorporated all of the
20 claims of Claim 3-4 and also added in the new Judgment Lien Claim totaling \$83,823.25
21 (“**Judgment Lien Claim**”). This brought the total secured claim amount of Claim 7-1 to
22 \$727,059.24. Additionally, since Atlas has refused to withdraw Claim 3-4 or properly
23 amend Claim 7-1, Atlas currently has two secured claims claiming a combined total
24 secured claim of \$1,370,295.23.
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1 The Judgment Lien Claim is based on civil judgment obtained against Victor
2 Granado on or about December 20, 2016, in Maricopa County Superior Court, case no.
3 CV2016-091334 (the “**Judgment**”) by irrelevant third party. The Judgment was recorded
4 on or about January 20, 2017 in Pinal County. *See* Claim 7-1, Exhibits B-L at pg. 55. Atlas
5 purchased the Judgment on or about March 1, 2018. Atlas argues that Lots 2 and 4 of the
6 Property were vested in Victor Granado when the Judgment was recorded in January 2017,
7 effectively creating a lien on the Property for the Judgment amount.
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10 On March 12, 2021, DVSCC filed its *Amended Objection to Claim 3,7 submitted*
11 *by creditor Atlas Residential LLC* (Dkt. No. 211 “**Amended Objection to Claim 3-4 and**
12 **Claim 7**”) amending its objection to Claim 3-4 and objecting to Claim 7. DVSCC fully
13 incorporates its Amended Objection to Claim 3-4 and 7-1 herein as if stated in full. On
14 April 1, 2021 Atlas filed their *Response to Debtor's (I) Amended Objection to Atlas's Proof*
15 *of Claim 3-4 and (II) Objection to Atlas's Proof of Claim 7-1* Dkt. No. 224. An evidentiary
16 hearing has not yet been set to resolve DVSCC’s claim objections.
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19 a. Property Ownership Issue Raised by Atlas

20 In late 2016 a series of transfers involving the Property took place. First, on
21 November 2, 2016, a quit claim deed was recorded transferring Lots 2 and 4 of the Property
22 from DVSCC to Juanita Granado, a former spouse of the Principal Victor Granado (the
23 “**First Transfer**”). *See* Pinal County Recorder Fee Number 2016-074236, filed in this case
24 at Dkt. No. 150-1, pg. 13.
25

26 Then, of December 9, 2016, a quit claim deed was recorded transferring Lots 1 and
27 4 of the Property from Juanita Granado to Victor Granado (the “**Second Transfer**”). *See*
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1 Pinal County Recorder Fee Number 2016-083574, filed in this case at Dkt. No. 150-1, pg.
2 16. Attached to this quit claim deed, was the Victor L Granado Irrevocable Trust
3 Agreement (the “Irrevocable Trust”). The Irrevocable Trust specified that Victor Granado
4 was the “Grantor” and Jamie Granado was the “Trustee.” The Irrevocable Trust specified
5 that Victor Granado conveyed Lots 2 and 4 of the Property to the Irrevocable Trust (the
6 “**Third Transfer**”).
7

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9 Finally, on January 4, 2017, a quit claim deed was recorded transferring Lots 2 and
10 4 of the Property from the Irrevocable Trust to DVSCC (the “**Fourth Transfer**”). *See* Pinal
11 County Recorder Fee Number 2017-081901, filed in this case at Dkt. No. 150-1, pg. 51.
12

13 Atlas alleges the Third Transfer above is legally invalid because it did not comply
14 with A.R.S. Section 33-401, specifically, that Victor Granado’s signature was not
15 notarized. Atlas argues that Lots 2 and 4 are still vested in Victor Granado as a result.

16 On June 27, 2017, Old Republic National Title Insurance Company prepared a
17 Trustee Sale Guarantee on behalf of Atlas (the “**Trustee Sale Guarantee**”) *see* Dkt. No.
18 150-1 at. Pg. 54. The Trustee Sale Guarantee was of the opinion that Lots 2 and 4 of the
19 Property were still vested in Victor Granado as of the date it was prepared. In May of 2017,
20 First American Title Insurance Company prepared a Commitment for Title Insurance, in
21 which it was of the opinion that title to Lots 2 and 4 of the Property were at that time vested
22 in Victor Granado. *See* Dkt. No. 224-1 at pg. 4. On July 19, 2017, Old Republic National
23 Title Insurance Company prepared a Commitment for Title Insurance, in which it was of
24 the opinion that Lots 2 and 4 of the Property were at that time vested in Victor Granado.
25 *See* Dkt. No. 224-1 at pg. 12. Atlas argues the Trustee Sale Guarantee and both
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1 Commitments for Title Insurance demonstrate that Victor Granado owns Lots 2 and 4 of
2 the Property.

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4 DVSCC argues that it owns the entirety of the Property. DVSCC argues that Atlas
5 must bring forth some type of procedural action to invalidate the Third Transfer.
6 Specifically, DVSCC argues that Atlas must bring an Adversary Proceeding under
7 Bankruptcy Rule 7001. DVSCC further argues that a fraudulent transfer action is limited
8 by the Bankruptcy Code in Section 548(a) to those done in last two years, and limited by
9 Arizona Law in A.R.S. Section 44-1009 to within four years of the transfer. The transfer
10 Atlas complains of was recorded over four years ago.

11
12 Atlas has taken the position that it has proven a prima facie case for valid secured
13 claim for the Judgment Lien Claim and Debtor has failed to rebut it, so it therefore stands
14 enforceable against the DVSCC bankruptcy estate. *See* Dkt. No. 224. However, Atlas fails
15 to take into account the realities of its arguments. If Atlas' arguments are correct, then
16 Victor Granado is still the vested owner of Lots 2 and 4 of the Property, which would mean
17 those lots are not property of this bankruptcy estate and the Judgment Lien Claim is not
18 enforceable against DVSCC or any of its property.

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21 If DVSCC is correct in their arguments, the Property was fully vested in DVSCC
22 when the Judgment was recorded. DVSCC would still own the entirety of the Property
23 without the encumbrance of the Judgment Lien Claim.

24
25 No matter the outcome, the Judgment Lien Claim will not be enforceable against
26 DVSCC or any of its property. Due to this fact, the Judgment Lien Claim is not accounted
27 for in the Chapter 11 Plan. Currently there is no set track for resolution of these issues.
28

1 **q. Atlas Motion for Order That It Was Acting as a Custodian**

2 On January 28, 2021, Atlas filed, *Motion to Determine / Atlas Residential's Motion*
3 *for Order That It Was Acting As a Custodian Re Its Amended First and Second Application*
4 *for Administrative Expense* (Dkt. No. 196, “**Custodian Motion**”) seeking a determination
5 that it was acting as a custodian under the Bankruptcy Code for purposes of Atlas’
6 Administrative Claim. On March 1, 2021, DVSCC filed *Response to Motion/Application*
7 *by Atlas for Order That They Were Acting as a Custodian* (Dkt. No. 205, “**Response to**
8 **Custodian Motion**”) responding to Atlas’ Custodian Motion. On March 23, 2021, Atlas
9 filed their *Atlas's Reply in Support of Its Motion for Order That It Was Acting As a*
10 *Custodian* (Dkt. No. 222). Oral argument on the Custodian Motion was heard by this Court
11 on April 8, 2021. *See* Dkt. No. 226. The Court’s decision on this issue is pending.
12
13
14

15 **V. DESCRIPTION OF ASSETS AND LIABILITIES OF DVSCC**

16 The values ascribed to the assets below are based on DVSCC’s best estimate and
17 other factors such as the purchase price, comparable sales, and tax assessments, and where
18 applicable as referenced below, on appraisals obtained.
19

20 **a. Real Property**

21 The Property is the only real property owned by the DVSCC. The Property is an
22 apartment complex originally comprised of thirteen (13) units located at 603 & 607 N. D.
23 Street, Eloy, AZ 85231. Five (5) of the units were damaged by a fire and subsequently
24 needed to be demolished and removed after Atlas removed the demising walls of the units
25 during demolition causing an irreparable roof collapse. Atlas holds a first position lien up
26
27
28

1 to a maximum of \$275,000 on the Property and the Insurance Proceeds.²

2 On or about May 26, 2020, DVSCC obtained an appraisal of the Property by
3 Joseph's Appraisal Group valuing the Property between \$249,000.00 and \$258,000.00.³
4 (see JAG Appraisal attached as "**Exhibit D**"). On or about August 17, 2020, Atlas obtained
5 an appraisal of the Property from Integra Realty Resources valuing the Property at
6 approximately \$510,000.00. (see IRR Appraisal attached as "**Exhibit E**"). Atlas' appraisal
7 by IRR is based on the "extraordinary assumption" that "the existing footing/foundation
8 remaining from the 5 units that were destroyed/removed are still capable of being used in
9 the reconstruction of the units and will meet building code requirements without significant
10 modification." (see *id.* at pg. 2). The existing footing and foundation has not been evaluated
11 by anyone with expert structural engineering knowledge that could support IRR's
12 extraordinary assumption.
13
14
15

16 DVSCC believes the JAG appraisal to most accurately reflect the value of the
17 Property in its current condition. After disposition costs, DVSCC believes there is no equity
18 in the Property for the benefit of the Estate.
19

20 **b. Personal Property**

21 1. Cash on Hand

22 DVSCC had no cash on hand as of the date of this Amended Disclosure Statement.
23

24 2. Bank Accounts

25 DVSCC had \$14,678.53 in its DIP account ending in 5722 (operating) with UMB
26 Bank N.A. as of February 28, 2021. (see Dkt. No. 218).
27

28 ² Pursuant to Atlas' Deed of Trust, the maximum lien amount secured by the Deed of Trust is \$275,000.00.
³ Debtor reserves all rights and defenses with regard to the actual value of the Property.

1 3. Other Cash Equivalents

2 DVSCC listed other cash equivalents which includes Insurance Proceeds turned
3 over to Atlas in the approximate amount of \$280,000.00. Atlas turned over the remainder
4 of the Insurance Proceeds totaling \$236,895.08 which are currently being held by DVSCC
5 in a segregated debtor-in-possession bank account. *see* Dkt. No. 218.
6

7 4. Tenant Deposits

8 DVSCC had \$5,845.03 in its DIP account ending in 5749 (tenant deposits) with
9 UMB Bank N.A. as of February 28, 2021. (*see* Dkt. No. 218).
10

11 5. Causes of Action Against Third Parties

12 DVSCC is the Plaintiff in a pending Adversary Proceeding against Atlas. Prior to
13 the commencement of this bankruptcy proceeding, DVSCC and Atlas had been engaged in
14 civil litigation in Pinal County Superior Court. On or about August 3, 2018 Atlas brought
15 suit against DVSCC, Victor Granado and Jamie Granado in S1100CV201801357. Atlas
16 essentially sought declaratory relief that it was entitled to possession of the Property and
17 Insurance Proceeds.
18

19 Or about that same day, August 3, 2018, Jamie Granado and DVSCC brought suit
20 against Atlas, Ronald Herb and other parties then unknown in S1100CV201801363. This
21 was an action to recover damages for wrongful foreclosure, breach of contract, and
22 temporary, preliminary, and permanent injunctive relief.
23

24 These actions were subsequently consolidated by the Pinal County Superior Court
25 into S1100CV201801357. On or about June 25, 2019, Jamie Granado, DVSCC, and Victor
26 Granado filed their Verified First Amended Complaint (the “**Complaint**”). The Complaint
27
28

1 sought damages for wrongful foreclosure⁴, breach of contract, negligence, breach of
2 covenant of good faith and fair dealing, consumer fraud, breach of fiduciary duty,
3 injunctive relief, and a demand for an accounting by Atlas.
4

5 On or about April 10, 2020, S1100CV201801357 was removed to the bankruptcy
6 court as an adversary proceeding in case number 2:20-ap-00093 (the “**Adversary Case**”).
7 The Adversary Case is in the discovery phase of litigation and set to be scheduled for trial
8 in November of this year. The Adversary Case presents significant additional litigation for
9 at least the remainder of the year.
10

11 **c. Financial Reports**

12 DVSCC is current on filing its monthly operating reports. These can be obtained
13 from the Court docket or by contacting DVSCC current counsel, WLO.
14

15 **d. Administrative Expenses**

16 Administrative expenses in this case consist primarily of the Administrative Claims
17 discussed in Section VIII below. Additionally, DVSCC incurs an average of \$2,693.50 in
18 monthly operating costs. This includes utilities, taxes, insurance, repairs, maintenance, and
19 a proposed property management fee of \$300 per month. *See* Monthly Budget attached as
20 “**Exhibit F**”. Since April 2020, DVSCC has been making monthly adequate protection
21 payments to Atlas of \$1,120.00. These payments will cease on the Effective Date of the
22 Plan.
23
24
25
26
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28

4 Count I Wrongful Foreclosure was dismissed by the Pinal County Superior Court on October 25, 2019.

1 **e. Payments by Consulting Experts LLC to WLO**

2 Consulting Experts, LCC, which is member/managed by a Principal of DVSCC,
3
4 Jamie Granado, has to date paid \$50,000.00 to WLO for the purpose of funding DVSCC's
5 ongoing legal fees. *See* Dkt. Nos. 199, 204, and 231. These payments have reduced the
6 administrative burden of DVSCC and has allowed it to continue reorganization efforts
7 through this case. Consulting Experts, LLC does not intend to make any claims against the
8 estate for reimbursement of these funds.
9

10 **VI. ADMINISTRATIVE CLAIMS**

11 **a. KM**

12 Previous Counsel for the DVSCC, KM, has filed two fee applications. KM's First
13 Application for Allowance and Payment of Compensation and Reimbursement of
14 Expenses of Keery McCue was filed on August 26, 2020, and sought approval of
15 \$23,701.31 for services rendered between February 27, 2020, and May 31, 2020. (*see* Dkt.
16 No. 129). KM's First Application was approved by the Court and offset by \$11,000.00 KM
17 had held in trust. (*see* Dkt. No. 166).
18
19

20 On December 18, 2020, KM filed its Second and Final Application for Allowance
21 and Payment of Compensation and Reimbursement of Expenses of Keery McCue, seeking
22 approval of \$29,190.18 for services rendered between June 1, 2020, and November 6, 2020.
23 (*see* Dkt. No. 182). The total outstanding Administrative Claim due to KM is \$41,891.49.
24

25 **b. WLO**

26 WLO currently has \$50,000.00 in its trust account to be applied towards its fees and
27 reimbursement of expenses. On March 2, 2021, WLO submitted an *Interim Application of*
28

1 *Debtor's Counsel for Compensation of Fees and Reimbursement of Expenses* (Dkt. No.
2 206, "**WLO Fee App**"). The WLO Fee App covers the time period of November 6, 2020
3 through March 1, 2021, and simply seeks authority to apply a total of \$39,522.50 of the
4 funds held in trust to balance due for DVSCC. The WLO Fee App does **not** seek to apply
5 any funds of the DVSCC bankruptcy estate or to maintain any additional administrative
6 claim for the amount sought. The WLO Fee App was re-noticed out all parties on April 12,
7 2021 and is pending Court approval. *See* Dkt. No. 230.
8
9

10 WLO believes additional legal fees may range between \$50,000.00 and
11 \$100,000.00 depending on the extent to which the remaining issues are litigated. It is
12 evident Atlas is attempting to bleed the Debtor dry through a policy of scorched earth
13 litigation. WLO anticipates the arrangement with Consulting Experts LLC will continue.
14 Accordingly, WLO does not anticipate the need to make an Administrative Claim in the
15 case. However, should this situation change, WLO reserves the right to apply for a claim
16 under Bankruptcy Code Section 507(a)(2) for any unpaid amounts for services rendered
17 and have such a claim treated as Class 1-A.
18
19

20 **c. Joseph's Appraisal Group**

21 Joseph's Appraisal Group has submitted an administrative expense claim for
22 \$1,000.00. (*see* Dkt. No. 133). There will be additional administrative expenses for related
23 costs such as expert witnesses.
24
25
26
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28

1 **d. Atlas**

2 As discussed in Section IV(m) above, Atlas has submitted an administrative expense
3 claim of \$247,544.45. (*see* Dkt. No. 115, Claim 3-4 and Claim 7-1). The claim is disputed
4 and subject to ongoing litigation. This claim will range from \$0 to \$247,544.45.
5

6 **VII. PRIORITY UNSECURED CLAIMS**

7 **a. Arizona Department of Revenue**

8 The Arizona Department of Revenue (the “**AZDOR**”) filed a proof of claim for a
9 priority unsecured claim of \$5,757.52. *see* Claim 1-3. Additionally, the AZDOR filed a
10 proof of claim for \$460 but this was subsequently withdrawn. *See* Claim 6-1 and Dkt. No.
11 138. The AZDOR claim will be treated a Class 1-C Priority Unsecured Claim for \$5,757.52
12 and be paid monthly through the Plan until paid in full. Interest will be applied at the rate
13 of 4.6%.⁵ Monthly payments will be \$107.60 for sixty (60) months.
14
15

16 **b. Internal Revenue Service**

17 The Internal Revenue Service (the “**IRS**”) filed a proof of claim for a priority
18 unsecured claim of \$1,700.00. *see* Claim 2-1. This claim will be treated a Class 1-C Priority
19 Unsecured Claim for \$1,700.00 and be paid monthly through the Plan until paid in full,
20 subject to a 4.6% interest rate. Monthly payments will be \$31.77 for sixty (60) months.
21

22 **c. Maricopa County Treasurer**

23 The Maricopa County Treasurer was listed as a priority unsecured creditor with an
24 unknown debt on DVSCC’s Schedules. *See* Dkt. No. 32 at pg. 14. The Maricopa County
25
26

27 _____
28 ⁵ Section 6621 of the Internal Revenue Code establishes the interest rates on underpayments of tax less than \$10,000 as the sum of the federal short-term rate plus 3 percentage points. The AZDOR follows this same formula. The current Federal Short Term rate is 1.6%.

1 Treasurer failed to file a proof of claim in this case. Accordingly, the Maricopa County
2 Treasurer will be treated as a claim for \$0.00 and provided no payments through the Plan.
3

4 **VIII. SECURED CLAIMS**

5 **a. Atlas**

6 As discussed in detail in Section IV(l) and IV(p) above, Atlas has submitted two
7 claims, Claim 3-4 and Claim 7-1, alleging a combined total secured claim of
8 \$1,370,295.23. DVSCC asserts that the maximum possible claim Atlas can make is for
9 \$727,059.24. For reasons discussed in Section IV(l) and IV(p) above, DVSCC is confident
10 that Atlas' total secured claim is limited to \$275,000.00 under the Deed of Trust.
11

12 DVSCC will recognize an Allowed Unimpaired Secured Claim of \$275,000.00.
13 ("Atlas' Allowed Secured Claim"). Atlas' Allowed Secured Claim shall accrue interest
14 at the original contract rate of four and nine-tenths percent (4.9%) annual interest and shall
15 be repaid as follows. DVSCC shall pay the Insurance Proceeds totaling \$236,525.66 to
16 Atlas at or near the Effective Date reducing the outstanding loan balance on Atlas' Allowed
17 Secured Claim to \$28,474.34. The remaining balance of the Allowed Secured Claim shall
18 be re-amortized over three hundred (300) months with a balloon payment at month one-
19 hundred and twenty (120). In addition to the principal reduction paid to Atlas from the
20 Insurance Proceeds, DVSCC shall make equal monthly payments of principal and interest
21 in the amount of \$164.80 per month ("Monthly P&I Payment") commencing on the
22 Effective Date.
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24
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28

1 Should there be difference between Atlas' Allowed Secured Claim and the total
2 amount of indebtedness this Court determines DVSCC owes to Atlas it shall be treated in
3 accordance with Class 3.
4

5 **b. Lane & Nach**

6 On July 30, 2020, Lane & Nach, P.C. ("**Lane & Nach**"), filed a Secured Claim in
7 the amount of \$33,592.14. (Claims Register – Claim No. 4-1). Although the proof of claim
8 states the amount is secured by a deed of trust against the Property, DVSCC is aware of no
9 such recorded document. However, Lane & Nach has recorded a UCC1 lien for this claim
10 against the Insurance Proceeds. (*see* Secretary of State File Number:2019-002-6724-8).
11 The position of Lane & Nach's security interest in the Insurance Proceeds is potentially
12 subject to litigation with Atlas. Moreover, if Lane & Nach's interest in the Insurance
13 Proceeds is secondary to Atlas' interest, there would remain no funds to secure Lane &
14 Nach's claim after they are applied to Atlas.
15
16

17 Under the Plan, DVSCC proposes to apply the Insurance Proceeds to Atlas' Secured
18 Claim. DVSCC intends to provide Lane & Nach with a \$28,553.32 lien against the
19 Property, secondary to any remaining lien by Atlas under the Deed of Trust should any be
20 found to exist. Lane & Nach's \$28,553.32 secured claim would be paid by monthly
21 payments under the plan without interest. Lane & Nach will result with an impaired secured
22 claim, entitled to vote on the Plan.
23
24

25 **c. The City of Eloy**

26 At the time this case was filed, the City of Eloy held a statutory lien against the
27 Property in the amount of \$10,450.00 for fees incurred for removal of construction debris
28

1 (Pinal County Recorder's Office Rec. Doc. 2019-099030). However, on or about June 25,
2 2020, the City of Eloy filed a release and discharge of said lien (Pinal County Recorder's
3 Office Rec. Doc. 2020-060632). The City of Eloy has not filed a proof of claim in this case
4 and the deadline by which to do so has passed. Accordingly, the City of Eloy will be treated
5 as a claim for \$0.00 and provided no payments through the Plan.
6

7 **IX. NONPRIORITY UNSECURED CLAIMS**

8 **a. Atlas**

9
10 In both of Atlas's proof of claims, Claim 3-4 and Claim 7-1, Atlas claims an
11 Unsecured Claim for any amount that is determined to not be secured. After resolution
12 DVSCC's Amended Objection to Claim 3-1 and Claim 7-1 is resolved this amount can be
13 properly determined. It will range from \$0 to \$368,235.99.
14

15 **b. Stanley J. Kartchner, Chapter 7 Trustee**

16 The Chapter 7 trustee for Victor Granado's personal bankruptcy, case no. 4:17-bk-
17 14574-BMW, filed a proof of claim for an unknown amount ("POC 5-1") (Claims Register
18 – Claim No. 5-1). POC 5-1 specifies, "[t]o the extent any funds are remaining in the Desert
19 Valley Chapter 11 after paying creditors through the Chapter 11 Plan, the Chapter 7
20 Granado Estate would be entitled to payment for its equity interest in Desert Valley."
21 Victor Granado has a ½ interest in DVSCC. After paying creditors through the Chapter 11
22 Plan, DVSCC will have not surplus of funds remaining.
23
24

25 The range of the value for the Property is \$249,000.00 to \$510,000.00. Lane & Nach
26 has a filed a secured claim for \$33,592.14 and Atlas has filed a disputed secured claim for
27 \$727,059.24. Given the range of value for the Property, the range of potential secured
28

1 claims, and the cost of litigation, DVSCC asserts that there is no equity value in the
2 Property on the date this case was filed. Accordingly, Stanley J. Kartchner, will be treated
3 as a Class 3 Nonpriority Unsecured Claim for \$0.00.
4

5 **c. The AZDOR**

6 The AZDOR filed a proof of claim for a nonpriority unsecured claim of \$56.99. *see*
7 Claim 1-3. AZDOR will be treated as a Class 3 Nonpriority Unsecured Claim for \$56.99
8

9 **d. The IRS**

10 The IRS filed a proof of claim for a nonpriority unsecured claim of \$1,900.00. *see*
11 Claim 2-1. This claim will be treated a Class 3 Nonpriority Unsecured Claim for \$1,900.00.
12

13 **e. MacQueen & Gottlieb, PLC**

14 MacQueen & Gottlieb, PLC, is listed on DVSCC bankruptcy Schedules as having
15 an unsecured claim of \$25,000.00. *see* Dkt. No. 32 at pg. 15. This Creditor did not file a
16 proof of claim. DVSCC and the Principals are jointly liable for this claim. *See* Dkt. Nos.
17 46, 46-1 and 46-2. Accordingly, MacQueen & Gottlieb will be treated as a Class 3
18 Nonpriority Unsecured Claim for \$8,333.33 to account for DVSCC's one-third share of
19 the debt owed. The Principals will provide payment directly to the creditor for the
20 remaining amount owed.
21

22 **f. City of Eloy**

23 The City of Eloy is listed on DVSCC bankruptcy Schedules as having an unsecured
24 claim of \$10,000.00 for fines. *see* Dkt. No. 32 at pg. 15. This Creditor did not file a proof
25 of claim in this case. The City of Eloy maintains no liens against DVSCC or the Property.
26 Additionally, subsequent lien release by the City of Eloy make clear that no balance is due
27
28

1 and owing from DVSCC. Accordingly, the City of Eloy will be treated as a Class 3
2 Nonpriority Unsecured Claim for \$0.00.

3
4 **g. Jess Loran**

5 Jess Loran is listed on DVSCC bankruptcy Schedules as having an unsecured claim
6 of \$5,000.00. *see* Dkt. No. 32 at pg. 15. This Creditor did not file a proof of claim. As such,
7 Jess Loran's claim will be treated as Class 3 Nonpriority Unsecured Claim for \$5,000.00.

8
9 **h. Emergency Cleanup Services**

10 Emergency Cleanup Services is listed on DVSCC bankruptcy Schedules as having
11 an unsecured claim of \$5,000.00. *see* Dkt. No. 32 at pg. 15. This Creditor did not file a
12 proof of claim. As such, Emergency Cleanup Services' claim will be treated as a Class 3
13 Nonpriority Unsecured Claim in the amount \$5,000.00.

14
15 **X. THE OWNERSHIP INTEREST OF THE PRINCIPALS**

16 This class consists of the equity ownership of the Principals, Victor and Jamie
17 Granado. The Plan provides that their equity ownership shall be extinguished and that on
18 the effective date the Granados shall contribute the \$20,000 cash payable to the allowed
19 Administrative Claims in exchange for 100% of the equity of the reorganized debtor. On
20 the effective date of the Plan, DVSCC will be held by Jamie Granado and Victor Granado
21 in equal shares as the Allowed Interest.

22
23 **XI. CLAIMS REGISTER**

24 Attached hereto as "Exhibit G" is a chart reflecting the status of claims filed in this
25 case.
26
27
28

XII. CLASSIFICATION, IMPAIRMENT AND TREATMENT OF CLAIMS AND INTERESTS

THE FOLLOWING STATEMENTS CONCERNING THE PLAN ARE MERELY A SUMMARY OF THE PLAN AND ARE NOT COMPLETE. THE STATEMENTS ARE QUALIFIED ENTIRELY BY EXPRESS REFERENCE TO THE PLAN. CREDITORS ARE URGED TO CONSULT WITH COUNSEL OR EACH OTHER IN ORDER TO UNDERSTAND THE PLAN FULLY. THE PLAN IS COMPLETE, INASMUCH AS IT PROPOSES A LEGALLY BINDING AGREEMENT BY THE DEBTORS. AN INTELLIGENT JUDGMENT CANNOT BE MADE WITHOUT READING IT IN FULL.

XIII. CLASSIFICATION OF CLAIMS AND INTERESTS

a. Classes

1. Class 1-A Priority Administrative Claims under 11 U.S.C. §507(a)(2)

i. Atlas -undermined \$0 to \$247,544.45

ii. Joseph's Appraisal Group \$1,000.00

2. Class 1-B Priority Administrative Claims Alternatively Treated under 11 U.S.C. §507(a)(2)

i. KM \$41,891.49

3. Class 1-C consists of Allowed Priority Unsecured Claims under 11 U.S.C. §507(a)(7) (Tenant Claims related to LP1).

4. Class 1-D Priority Unsecured Claims under 11 U.S.C. §507(a)(8) (Tax Claims).

i. AZDOR \$5,757.52

ii. IRS \$1,700.00

5. Class 2-A Unimpaired Secured Claims

i. Atlas – (Deed of Trust) \$275,000.00

6. Class 2-B Impaired Secured Claims

i. Lane & Nach, P.C.	\$28,553.32
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7. Class 3 Nonpriority Unsecured Claims

i. Atlas – undetermined	\$0 to \$368,235.99
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ii. Stanley J. Kartchner	\$0
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iii. **AZDOR** \$56.99

iv. IRS	\$1,900.00
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v. MacQueen & Gottlieb, LLC	\$8,333.33
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vi. City of Eloy	\$0
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vii. Jess Loran	\$5,000.00
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viii. Emergency Cleanup Services	\$5,000.00
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8. Class 4 consists of the Ownership Interests of the Principals.

XIV. IMPAIRMENT OF CLASSES

Class 1-A, Class 1-B, and Class-1C, and Class 2-A are unimpaired under the Plan.

All other classes are impaired, as that term is defined in 11 U.S.C. §1124.

XV. TREATMENT OF CLASSES

a. Class 1-A - Administrative Claims

Class 1-A consists of Allowed Priority Claims under 11 U.S.C. §507(a)(2) (Administrative Claims). Allowed Claims of Class 1-A shall be paid in full, in cash, by the earlier of the Effective Date or the date that such are allowed and ordered paid by the Court. Any Class 1-A Claim not allowed as of the Effective Date shall be paid as soon thereafter as they are allowed by the Court according to the terms of this Class.

1 **b. Class 1-B - Administrative Claims Treated Alternatively**

2 Class 1-B consists of Allowed Priority Claims under 11 U.S.C. §507(a)(2)
3 (Administrative Claims) which have agreed to be treated alternatively. Class 1-B claims
4 shall be paid in monthly payments until paid in full, commencing on the Effective Date.
5 DVSCC anticipates Class 1-B Claims will be paid in the first thirty (30) months of the
6 Plan. Class 1-B will be paid in full prior to any distributions to Class 3 Nonpriority
7 Unsecured Claims or any distributions to Class 4.
8

9 **c. Class 1-C: Tenant Claims**

10 Class 1-B consists of Allowed Priority Claims under 11 U.S.C. §507(a)(7)
11 relating to tenant security deposits, which includes: unsecured claims of individuals, to the
12 extent of \$1,800.00 for each such individual, arising from the deposit, before the
13 commencement of the case, of money in connection with the purchase, lease, or rental of
14 property...for the personal, family, or household use of such individuals, that were not
15 delivered or provided. To the extent the Debtors retain a property and that any tenant has
16 provided the Debtor a deposit relating to the lease of any real property that falls within the
17 \$1,800.00 debt limitations, the tenant's deposit rights shall be preserved and the Debtor
18 shall perform and act with the deposit in accordance with the terms of the pre-petition lease.
19 Any deposit that exceeds the \$1,800.00 dollar limitation or definitional limitations set forth
20 in 11 U.S.C. §507(a)(7) shall be treated as a general unsecured claim under Class 3. There
21 are no currently pending Class 1-C claims.
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1 **d. Class 1-D: Priority Unsecured Tax Claims**

2 Class 1-D consists of Allowed Priority Unsecured Tax Claims under 11 U.S.C.
3 §507(a)(8). Class 1-D shall be paid in full, in cash, in regular installment payments of a
4 total value, as of the Effective Date of the Plan, equal to the Allowed Priority Claim, over
5 a period ending five (5) years after the Petition Date, and in a manner that is not less
6 favorable than the most favored non-priority unsecured claim provided for by the Plan
7 (other than cash payments made to a class of creditors under §1122(b)). DVSCC reserves
8 the right to pay off Class 1-D claims at an earlier date should the funds become available.
9 Class 1-D claims will receive interest at the Tax Claim Rate (currently 4.6%).
10

11 **e. Class 2-A: Unimpaired Secured Claims**

12 Class 2-A consists of Unimpaired Secured Claims. Class 2-A claims will be paid
13 any cash collateral they are entitled to on or near the Effective Date of the Plan, thereby
14 reducing their total Allowed Secured Claims. Class 2-A Claims will then be re-amortized
15 over three hundred (300) months. Class 2-A Claims will be paid equal monthly payments
16 of principal and interest at the original contract rate. Class 2-A Claims may be pre-paid at
17 any time without penalty. DVSCC shall be deemed current on its obligations to all Class
18 2-A Claims upon the entry of the Confirmation Order. Once a Class 2-A Claim is paid in
19 full as reflected herein, any lien holders shall release any and all rights or interests it may
20 have in the collateral. If DVSCC fails to tender the payments as required herein, or if a
21 tendered payment is not honored, then Class 2-A Claims holders shall provide written
22 notice to DVSCC at 2999 N. 44th St., Ste. 600, Phoenix, AZ 85018, and if the default occurs
23 while the above-captioned bankruptcy proceeding remains active, to DVSCC's counsel at
24
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27
28

1 2999 N. 44th St., Ste. 600 Phoenix, AZ 85018, indicating the nature of the default. If
2 DVSCC fails to cure the default with certified funds after the passage of ten (10) business
3 days from the date said written notice is received by DVSCC and its counsel, if applicable,
4 Class 2-A Claim holders may file a declaration of such uncured event of default with the
5 Court. The terms herein shall control and resolve any claim Class 2-A Claims may have
6 against any guarantor. Class 2-A Claims shall provide DVSCC with monthly statements
7 beginning within thirty (30) days of the Effective Date of the Plan. To the extent any party
8 must seek relief from the Court to compel compliance with the terms herein, the prevailing
9 party shall be entitled to recover its attorneys' fees.
10

11
12 **f. Class 2-B: Impaired Secured Claims**

13 Class 2-B consists of Impaired Secured Claims which were secured by cash
14 collateral that was spent. Class 2-B claims are provided a security interest in the Property
15 for 85% of their original claim amount. Class 2-B claims are paid monthly payments
16 without interest. Class 2-B claims will be paid in the first 60 months of the Plan. DVSCC
17 reserves the right to pay off Class 2-B claims at an earlier date should the funds become
18 available.
19
20

21 **g. Class 3 General Unsecured Claims**

22 Class 3 consists of the Nonpriority Unsecured Claims of Creditors. Class 3 Creditors
23 will receive zero (\$) payments under the Plan. The value of DVSCC's liquidation equity is
24 \$0. DVSCC is confident that regardless of which Property value is used, Atlas' or
25 DVSCC's, there is negative liquidation equity.
26
27
28

1 **h. Class 4: Ownership Interest of the Principals**

2 Class 4 consists of the Ownership Interests of the Principals of DVSCC, Jamie and
3 Victor Granado. In consideration for retaining their interest, the Principals shall contribute
4 to DVSCC the amount of \$20,000.00 (“New Value”). In exchange for this new cash
5 contribution, the Principals shall retain their Ownership Interest in DVSCC, but unless, and
6 until all senior Allowed Claims are paid in full in accordance with the terms of the Plan,
7 the Principals shall receive no distribution on account of their Ownership Interest. The New
8 Value will be utilized to pay Class 1-A claims on the Effective Date of the Plan. Any
9 remaining amount of New Value will be then be applied to Class 1-B claims.
10

11 **XVI. Effect of a Secured Creditor’s Election under Section 1111(b)**

12 Section 1111(b) of the Bankruptcy Code covers the treatment of certain Claims and
13 Interests of Creditors. Specifically, §1111(b) provides an option (the “**Election**”) for the
14 undersecured nonrecourse creditors being dealt with in the Plan (hereinafter sometimes the
15 “**Undersecured Creditor**”) to have their Deficiency Claims treated as secured debt, a
16 deviation from the bifurcation provisions of 11 U.S.C. §506(a). In short, the Bankruptcy
17 Code permits an Undersecured Creditor to choose between two possible treatments with
18 respect to their Deficiency Claims. First, these Undersecured Creditor can have their
19 Deficiency Claim treated as recourse Unsecured Claim, whereby they will have the right
20 to vote their Claim in Class 3-B (Compass Bank’s General Unsecured Claims).
21 Alternatively, an Undersecured Creditor can choose to have the entirety of their Claim
22 treated as fully secured by their collateral. 11 U.S.C. §1111(b)(2).
23
24
25
26

27 There is at least one instance, however, in which this Election is unavailable, and
28

1 this exception applies to the Plan. Pursuant to Section 1111(b)(1)(B)(ii), if a Creditor's
2 lien is of inconsequential value, it is prevented from making the section 1111(b) election.
3 Therefore, the Election is not available to junior lienholders who are wholly unsecured.
4

5 With respect to the Undersecured Creditor, despite their nonrecourse status, the
6 Plan provides they shall have an unsecured Deficiency Claim.⁶ However, when a Creditor
7 makes the Election, such Creditor will, by virtue of the application of this statute, forego
8 its Deficiency Claim and instead elect to have its entire Claim treated as if it were fully
9 secured. In such case the Debtor shall have the choice of either returning the collateral or
10 of presenting the indubitable equivalent of the secured interest pursuant to Section
11 1129(b)(2)(A)(iii).
12

13 If an Undersecured Creditor makes the Election, its Allowed Secured Claim is not
14 treated the same as a fully Secured Claim. Rather, the Election gives rise to an "election
15 claim" equal to its total claim but allotted special treatment for purposes of plan
16 confirmation. In the event an Undersecured Creditor makes the Election, its Allowed
17 Secured Claim will be equal to its total Claim, and in order for the Plan to comply with
18 Section 1129(b)(2)(A)(i)(I), the lien is not stripped down by Section 506(d). Subsection
19 (II) of Section 1129(b)(2)(A)(i) guarantees such an electing creditor a stream of payments
20 equal to its total claim. However, the stream of payments need only have a present value
21 "of at least the value of such holder's interest in the estate's interest in such property."
22 Therefore, the Undersecured Creditor will receive under the Plan the treatment set forth
23
24
25

26 _____
27 ⁶ It should be noted that 502(b)(1) disallows any claim to the extent that it is unenforceable against the debtor or the
28 debtor's property under any agreement or applicable law. Therefore, the portion of a nonrecourse secured claim that
exceeds the value of the collateral is unenforceable against both (1) the debtor and the debtor's other property; and
(2) the collateral because the value of the collateral is insufficient to secure the entire claim. Nevertheless, the Plan
has provided that such an unsecured deficiency may be allowed and treated as an Unsecured Claim.

1 below if the identified Undersecured Creditor makes the Election and if the Debtor does
2 not return the collateral securing its Claim.

3
4 An Unsecured Creditor will receive equal monthly payments for 30 years such that
5 the total stream of payments is equivalent to the Allowed Secured Claim (without
6 interest). At the anniversary of the 30th year, the Debtor will pay a balloon payment, if
7 necessary, such that the net present value of the stream of payments to the Undersecured
8 Creditor is equal to the value of such holder's interest in the estates' interest in such
9 property. The discount rate for such payments with regard to the net present value shall
10 be three percent (3.0%) per annum (or such market rate as the Court may determine).
11

12 Pursuant to Fed.R.Bankr.P. 3014, an election pursuant to §1111(b) by an
13 Undersecured Creditor may be made at any time prior to the conclusion of the hearing on
14 the disclosure statement or within such later time as the court may fix. The election must
15 be in writing and signed unless made at the hearing on the Disclosure Statement.
16

17 **XVII. LIQUIDATION ANALYSIS**

18 **a. DVSCC's Liquidation Analysis**

19
20 The following is a Liquidation Analysis indicating what DVSCC believes creditors
21 would receive in the event of a liquidation. The figures for "market value" and "liquidation
22 value" are DVSCC's best estimate on what these assets are worth on a market or liquidation
23 basis.⁷ DVSCC assumes a chapter 7 trustee would not engage in the extensive and
24 exhaustive litigation against Atlas that is necessary to obtain a reduction of the amounts
25 they claimed owed. The Liquidation Analysis takes into account a secured claim by Atlas
26
27

28

⁷ Debtor estimates a ten percent (10%) discount to estimated market values for liquidation.

of \$516,946.13, that is applied against the Property and any remainder against the Insurance Proceeds, and an Administrative Claim of \$210,113.11. Lane and Nachs claims of \$33,592.14 is applied against the Insurance Proceeds as well.

Asset	Market Value	Liquidation Value	Exemption	Secured Claim	Equity
603 & 607 N. D Street, Eloy, AZ 85231	\$ 252,000.00	\$ 226,800.00	\$ -	\$ 516,946.13	\$ (290,146.13)
Insurance Proceeds	\$ 236,525.66	\$ 236,525.66	\$ -	\$ 323,738.27	\$ (87,212.61)
				Total Liquidated Value	-\$87,212.61
				(Less Priority)	(\$7,457.52)
				(Less WLO Admin)	(\$50,000.00)
				(Less Atlas Admin)	(\$210,113.11)
				(Less KM Admin)	(\$41,891.49)
				LIQUIDATION EQUITY	-\$396,674.73

Creditors should note that on a liquidation basis, full market value for assets cannot be obtained. Further, there are costs associated with a liquidation of assets that must be paid out of any sale proceeds. This would lessen the recovery to creditors. It should be further noted that if Atlas were to prevail in full on its alleged valuation of the Property at \$510,000.00, there would still be no Liquidation Equity for unsecured creditors. In short, the Property would need to be worth over \$700,000.00 to for there to be any positive Liquidation Equity.

Moreover, the liquidation analysis does not contain an estimation of any tax liability that could be associated with the liquidation. This would further lessen the recovery to creditors. **After Administration Claims⁸ and Priority Claims, there is zero (\$0) Liquidation Equity for the benefit of general Unsecured Claims. DVSCC will pay**

⁸ WLO estimates its' attorneys' fees will be approximately \$50,000.00 and no potential Administrative Claim for Atlas is accounted for.

1 **in full all of its Administrative Claims and Priority Claims out of its Excess Cash Flow**
2 **and pay a pro-rata distribution to its general unsecured creditors in the total amount**
3 **of \$0.00**
4

5 This analysis is provided for informational purposes only, given that DVSCC's Plan
6 does not contemplate a liquidation. The importance of the analysis is to illustrate that even
7 if DVSCC's estate was liquidated, values would lessen significantly and creditors would
8 not be paid quickly and general unsecured creditors would not receive a distribution at all.
9 DVSCC's Plan not only calls for the commencement of immediate payments to creditors,
10 it also enhances the ability to pay creditors in a greater amount more quickly. Unsecured
11 creditors should be mindful that all administrative claims and priority claims are paid
12 before any distribution to general unsecured claims.
13
14

15 **XVIII. DVSCC'S INCOME PROJECTIONS**

16 DVSCC has operated overall profitably while in bankruptcy, to a large extent due
17 to the extensive efforts of its principal and the patience of its creditors. DVSCC will
18 continue to generate sufficient revenues to service its operating expenses and to pay the
19 debt service called for under the Plan. DVSCC believes it can generate an income of \$1,700
20 per month to fund Plan payments. Attached hereto as "**Exhibit F**" are DVSCC's
21 projections provided on a monthly basis. As those projections demonstrate, DVSCC will
22 be able to continue to operate profitably, and will generate sufficient income to be able to
23 service the debt as is necessary under the Plan.
24
25

26 **XIX. EFFECT OF CONFIRMATION**

27 Except as otherwise provided in the Plan or the Court's order confirming the Plan,
28

1 the Confirmation Order acts as a discharge, effective as of the Effective Date, of any and
2 all debts of DVSCC that arose at any time before the entry of the Confirmation Order,
3 including but not limited to, all principal and any and all interest accrued thereon, pursuant
4 to §1141(d)(1) of the Bankruptcy Code. The discharge of DVSCC shall be effective as to
5 each claim regardless of whether a proof of claim thereof was filed, whether the claim is
6 an allowed claim, or whether the holder thereof votes to accept the Plan.
7

8
9 In addition, any pre-confirmation obligations of DVSCC dealt with in the Plan shall
10 be considered New Obligations of DVSCC and these New Obligations shall not be
11 considered in default unless and until the Reorganized Debtor defaults on the New
12 Obligations pursuant to the terms of the Plan. The New Obligations provided for in the
13 Plan shall be in the place of, and completely substitute for, any pre-Confirmation
14 obligations of DVSCC and, once the Plan is confirmed, the only obligations of DVSCC
15 shall be such New Obligations as provided for under the Plan.
16

17 **XX. IMPLEMENTATION AND FUNDING OF THE DEBTOR'S PLAN**

18
19 DVSCC's plan will be funded by its operations and Excess Cash Flow. Further, the
20 Interest Holders will repurchase their ownership in DVSCC by borrowing \$20,000.00 and
21 contributing those funds to DVSCC for its use to pay administrative claims. The
22 Reorganized Debtors shall act as the Disbursing Agent under the Plan.
23

24 In the event any entity which possesses an Allowed Secured Claim, or any other
25 lien in any of the Debtor's property for which the Plan requires the execution of any
26 documents to incorporate the terms of the Plan, fails to provide a release of its lien or
27 execute the necessary documents to satisfy the requirements of the Plan, the Debtor may
28

1 record a copy of their Plan and the Confirmation Order with the appropriate governmental
2 agency and such recordation shall constitute the lien release and creation of the necessary
3 new liens to satisfy the terms of the Plan. If the Debtor deems advisable, they may obtain
4 a further Order from the Court that may be recorded in order to implement the terms of the
5 Plan.
6 Plan.

7 **XXI. TAX CONSEQUENCES**

8 Pursuant to §1125(a)(1) of the Bankruptcy Code, the Debtor is to provide a
9 discussion of the potential material federal tax consequences of the Plan to the Debtor, any
10 successor to the Debtor, and a hypothetical investor typical of the holders of claims or
11 interests in the case, that would enable such a hypothetical investor of the relevant class to
12 make an informed judgment about the Plan, but adequate information need not include
13 such information about any other possible or proposed plan and in determining whether
14 the Disclosure Statement provides adequate information, the Court shall consider the
15 complexity of the case, the benefit of additional information to creditors and other parties
16 in interest, and the cost of providing additional information.
17
18
19

20 Neither the Debtor nor their lawyers can make any statements with regard to the tax
21 consequences of the Plan on any of the creditors. Although they would note that to the
22 extent the creditor is not paid in full their Allowed Claim, they should consult with their
23 tax advisor concerning the possibility of writing off for tax purposes that portion of their
24 Allowed Claim that is not paid. Each creditor in this case, when analyzing the Plan, should
25 consult with its own professional advisors to determine whether or not acceptance of the
26 Plan by the creditor will result in any adverse tax consequences to the creditor.
27
28

1 The Bankruptcy Tax Act generally provides that the Debtor does not have to
2 recognize income from the discharge of indebtedness. The Plan contemplates significant
3 discharge of indebtedness; however, because the Debtor is in bankruptcy, they will not
4 have to recognize the discharge of indebtedness as income for tax purposes. The Debtor
5 does not believe the Plan will cause any adverse tax consequences.

6
7 **XXII. NON-ALLOWANCE OF PENALTIES AND FINES**

8 No distribution shall be made under this Plan on account of, and no allowed claim,
9 whether secured, unsecured, priority, or administrative, shall include any fine, penalty,
10 exemplary or punitive damages, late charges or other monetary charge relating to or arising
11 from any default or breach by the Debtor, and any claim on account thereof shall be deemed
12 disallowed whether or not an objection to it is filed.

13
14
15 **XXIII. EXECUTORY CONTRACTS**

16 The Debtor rejects all executory contracts and unexpired leases not otherwise
17 assumed herein or by separate order of the Court. Claims for any executory contracts or
18 unexpired leases rejected by the Debtor shall be filed no later than ten (10) days after the
19 earlier of Confirmation or the date the executory contract or unexpired lease is specifically
20 rejected. Any such Claims not timely filed and served shall be disallowed.

21
22 **XXIV. VOTING PROCEDURE**

23 The Plan divides the claims of creditors and of interest-holders into separate classes.
24 All classes of claimants are encouraged to vote; however, only the vote of holders of claims
25 that are impaired by the Plan will have a significant impact upon the confirmation process.
26 Generally, this includes creditors who, under the Plan, will receive less than payment in
27
28

1 full of their claims on the Effective Date of the Plan.

2 All creditors entitled to vote on the Plan must cast their vote by completing, dating
3 and signing the ballot which has been mailed to them together with the Disclosure
4 Statement. The ballot contains instructions concerning the deadline for submitting the
5 ballot and to what address the ballot should be mailed.

7 This Disclosure Statement has been approved by the Bankruptcy Court in
8 accordance with §1125 of the Bankruptcy Code, and is provided to each person whose
9 claim or interest has been scheduled by the Debtor, or who has filed a proof of claim or
10 interest with respect to the Debtor or its property, each known equity interest holder and
11 other parties-in-interest known to the Debtor. The Disclosure Statement is intended to assist
12 creditors in evaluating the Plan and in determining whether to accept the Plan. In
13 determining acceptance of the Plan, votes of creditors will only be counted if submitted by
14 a creditor whose claim is duly scheduled by the Debtor as undisputed, non-contingent and
15 liquidated, or who has timely filed with the Court a proof of claim or proof of interest.

18 The Bankruptcy Court will schedule a hearing to determine whether the
19 requirements for confirmation under the Bankruptcy Code have been met and whether the
20 Plan has been accepted by each impaired class and by the requisite number of creditors in
21 such class. Under §1126 of the Code, an impaired class is deemed to have accepted the
22 Plan upon a favorable vote of at least two-thirds (2/3) in dollar amount and more than one-
23 half (1/2) in number of the allowed claims of class members voting on the Plan. Further,
24 unless there is unanimous acceptance of the Plan by an impaired class, the Court must also
25
26
27
28

1 determine that class members will receive at least as much as they would if the Debtors
2 were liquidated under Chapter 7 of the Code.

3
4 Even if each class of creditors does not accept the Plan, the Plan can be confirmed
5 under §1129(b) of the Code, so long as one impaired class of creditors accepts the Plan.
6 The failure of each class to accept the Plan could very well result in a conversion of this
7 case to a Chapter 7 or dismissal of the Chapter 11, and the secured creditors repossessing
8 their collateral and disposing of it in a commercially reasonable manner with no obligation
9 to unsecured creditors.
10

11 **XXV. MODIFICATION OF PLAN**

12 In addition to its modification rights under §1127 of the Bankruptcy Code, the
13 Debtors may amend or modify their Plan at any time prior to Confirmation without leave
14 of the Court. The Debtor or the Reorganized Debtor may propose amendments and/or
15 modifications of their Plan at any time subsequent to Confirmation with leave of the Court
16 and upon notice to Creditors. After Confirmation of the Plan, the Debtor or the Reorganized
17 Debtor may, with approval of the Court, as long as it does not materially or adversely affect
18 the interests of Creditors, remedy any defect or omission or reconcile any inconsistencies
19 of the Plan, or in the Confirmation Order, if any may be necessary to carry out the purposes
20 and intent of their Plan.
21

22 **XXVI. EXCULPATION CLAUSE**

23
24 From and after the Effective Date, neither Debtor, Reorganized Debtor, the
25 professionals employed on behalf of the Estate, nor any of his respective present or former
26 employees, advisors, attorneys, or agents, shall have or incur any liability, including
27
28

1 derivative claims, but excluding direct claims, to any holder of a Claim or any party-in-
2 interest, or any of their respective agents, employees, representatives, financial advisors,
3 attorneys, or Affiliates, or any of their successors or assigns, for any act or omission in
4 connection with, relating to, or arising out of (from the Petition Date forward), the Chapter
5 11 Case, Reorganized Debtor, the pursuit of confirmation of this Plan, or the consummation
6 of this Plan, except for gross negligence and willful misconduct, and in all respects shall
7 be entitled to reasonably rely upon the advice of counsel with respect to his duties and
8 responsibilities under this Plan or in the context of the Chapter 11 Case
9
10

11 **XXVII. CLOSING OF THE CASE**

12 If the Court does not close this case on its own motion, the Reorganized Debtor will
13 move the Court to close this case once the Plan is deemed substantially consummated.
14 Until substantial consummation, the Reorganized Debtor will be responsible for filing pre-
15 and post-confirmation reports required by the United States Trustee and paying the
16 quarterly post-confirmation fees of the United States Trustee, in cash, pursuant to 28 U.S.C.
17 §1930, as amended. Pursuant to 11 U.S.C. §1129(a)(12), all fees payable under section
18 1930 of title 28, as determined by the Court at the hearing on confirmation of the Plan, will
19 be paid, in cash, on the Effective Date.
20
21

22 **XXVIII. RETENTION OF JURISDICTION**

23 The Court will retain jurisdiction until the Plan has been fully consummated for,
24 including but not limited to, the following purposes:
25

26 1. The classification of the Claims of any Creditors and the re-examination of
27 any Claims which have been allowed for the purposes of voting, and for the determination
28

1 of such objections as may be filed to the Creditor's Claims. The failure by the Debtor to
2 object to or examine any Claim for the purpose of voting shall not be deemed to be a waiver
3 of the Debtor's rights to object to or to re-examine the Claim in whole or in part.
4

5 2. To determine any Claims which are disputed by the Debtor, whether such
6 objections are filed before or after Confirmation, to estimate any Un-liquidated or
7 Contingent Claims pursuant to 11 U.S.C. §502(c)(1) upon request of the Debtor or any
8 holder of a Contingent or Un-liquidated Claim, and to make determination on any objection
9 to such Claim.
10

11 3. To determine all questions and disputes regarding title to the assets of the
12 estate, and determination of all causes of action, controversies, disputes or conflicts,
13 whether or not subject to action pending as of the date of Confirmation, between the
14 Debtors and any other party, including but not limited to, the sale or disposition of property
15 (both pre and post confirmation) and any rights of the Debtors to recover assets pursuant
16 to the provisions of the Bankruptcy Code.
17

18 4. The correction of any defect, the curing of any omission or any reconciliation
19 of any inconsistencies in the Plan, or the Confirmation Order, as may be necessary to carry
20 out the purposes and intent of the Plan.
21

22 5. The modification of the Plan after Confirmation, pursuant to the Bankruptcy
23 Rules and the Bankruptcy Code.
24

25 6. To enforce and interpret the terms and conditions of the Plan.

26 7. The entry of an order, including injunctions, necessary to enforce the title,
27 rights and powers of the Debtors, and to impose such limitations, restrictions, terms and
28

1 conditions of such title, right and power that this Court may deem necessary.

2 8. The entry of an order concluding and terminating this case.

3 **XXIX. DISCLAIMER**

4
5 Court approval of this Disclosure Statement and the accompanying Plan of
6 Reorganization, including exhibits, is not a certification of the accuracy of the contents
7 thereof. Furthermore, Court approval of these documents does not constitute the Court's
8 opinion as to whether the Plan should be approved or disapproved.

9
10 **XXX. RISKS**

11 The risk of the Plan lies essentially with the Debtor's ability to maintain their income
12 to make plan payments.

13
14 **XXXI. PROPONENTS' RECOMMENDATION/ALTERNATIVES TO THE PLAN**

15 The Debtor recommends that all creditors entitled to vote for the Plan do so. The
16 alternatives to confirmation of the Plan would be either conversion of this case to a case
17 under Chapter 7 of the Bankruptcy Code or its dismissal.

18 Conversion will result in the appointment of a Chapter 7 trustee and, most likely,
19 the hiring of an attorney by the trustee. Expenses incurred in administering the Chapter 7
20 case will take priority in the right to payment over allowed, administrative expenses
21 incurred in the Chapter 11 case. Both Chapter 7 and Chapter 11 administrative expenses
22 take priority over the payment of unsecured claims without priority. In other words,
23 conversion would likely decrease the net amount available to pay currently existing
24 creditors, and it is extremely likely general unsecured creditors would not receive any
25
26
27
28

1 distribution in a Chapter 7. Further, a Chapter 7 proceeding would not provide the Debtor
2 with the means to pay its Administrative Claims and Priority Claims over time.

3
4 In addition, conversion could substantially delay any distribution to creditors
5 beyond the time period for distribution defined in the Plan. A Chapter 7 trustee is not
6 limited to specific deadlines for closing a case and distributing assets to creditors. It is not
7 unusual for distributions in Chapter 7 cases to be delayed for years. Moreover, the return
8 on the assets of the Estate a trustee is likely to obtain through a standard Chapter 7
9 liquidation could be less than the return the Plan will generate.

11 Dismissal of this case would leave all creditors holding unsecured claims in the
12 position of having to institute legal proceedings to collect their debts. Moreover, outside
13 the context of a bankruptcy case, the first creditor to collect may collect all non-exempt
14 property, leaving nothing to be paid to remaining creditors. In addition, dismissal of this
15 case would open the door for the Debtor to file a new bankruptcy case, which could further
16 delay or reduce funds available to pay creditors.

18
19 For all these reasons, the Debtor urges you to vote to accept the Plan and to return
20 your ballots in time to be counted.

21 ***[REMAINDER OF THIS PAGE INTENTIONALLY BLANK]***

22 ***[SIGNATURES TO FOLLOW ON NEXT PAGE]***

23 **RESPECTFULLY SUBMITTED** this 14th day of April, 2021

25 **Wright Law Offices, PLC**

26 By: /s/ Shawn A. McCabe (032402)

27 Shawn A. McCabe

28 *Attorneys for Debtor*

DESERT VALLEY STEAM CARPET CLEANING,
LLC

By: /s/ Jamie Granado (with permission)
By: Jamie Granado
Its: Managing Member

E-FILED this 14th day of April, 2021 with
the U.S. Bankruptcy Court. **COPIES**
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7 *Chapter 7 Trustee*

8
9 All parties listed on the attached mailing list
10 who are not listed above.

11
12 By: /s/ Rebecca Casteel
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